

REMARKS

This paper is filed in response to the Office Action mailed December 24th 2008. Claims 1, 3 -20 were pending in the application. In response to the official action, claims 1, 9, 10, 12 and 18 have been amended. Claims 5 - 8, 16 and 17 have been canceled. Therefore claims 1, 3, 4, 9 – 15, 18 - 20 are submitted herewith for reconsideration:

Claim 18 - 20 were rejected under 35 USC 112 as being indefinite in scope. In response to this objection, claim 18 has been amended to include explicit product features of the system, based on presently amended claim 1. In light of this amendment it is believed that the rejection is now moot.

Claims 1, 3, 4 were rejected under 35 USC 102(e) as being anticipated by Wright (US6823634). In response to this rejection, claim 1 has been amended to incorporate specifically the features of claims 2 and 5 to 8. In light of this amendment it is believed that the rejection under 35 USC 102(e) is now also moot.

Claims 5 to 10, 12 to 15 and 18 to 20 were previously rejected under 35 USC 103 as being unpatentable over Wright (US6823634). According to the reasoning of the Examiner, it would have been obvious in light of Wright to form the strips of polystyrene or a styrene based copolymer and it would have been furthermore obvious to modify Wright to show a one-component polymer adhesive that hardens by evaporation of a solvent and comprises a polymer or copolymer or block (co) polymer having aliphatic or styrenic groups which compatibilise the polymer with styrene. Applicant respectfully traverses the Examiner's rejection on the basis of the following reasoning, as applied to presently amended claim 1.

Wright describes a horizontal spacer for rectangular and non-rectangular glass block walls. Main spacers and radius spacers may be connected by the use of tabs which fit into matching holes (col. 3, line 41 to line 44). Wright provides no guidance as to the nature or material of the main spacers. The background to Wright suggests that the invention relates to an improvement in the manner in which the spacers are joined one to another. In particular, it is understood that the tabs and barbs securely hold the construction together such that even an unskilled person may construct the wall, while maintaining a regular spacing between blocks (column 1, line 39 to line 51). This is apparently important in avoiding the tying devices of the

prior art discussed at column 1, line 33 to line 38. No further indication or suggestion is given by Wright in relation to the joining of the glass blocks together.

The Examiner has indicated that the choice of material and adhesive would have been a matter of obvious design consideration. In particular, it is suggested that the choice of polystyrene could prevent rusting. It is however noted that many other materials have been used in the past which were not susceptible to rust. These have included wood, wood composite, solid plastic and hollow aluminum profiles. In general, efforts to improve and simplify wall construction have sought relatively rigid structures in order to ensure the stability of the wall which must conform to engineering and building regulation standards. To the best of Applicant's knowledge, none of the prior construction arrangements have been able to achieve DIN 4103 certification for walls freestanding on two sides (e.g. top and one side). The present construction has been optimized to allow sufficient bonding strength in combination with excellent flexibility of the spacer. This has been achieved by the choice of materials and also by the use of thin walled profile elements. The resulting construction has defied experts' expectations in terms of its ability to withstand impact. A movie of the testing procedure can be viewed at http://www.quicktech.se/monteringsprofil_film.php# (see in particular the movie Däck 1 and the enclosed scene) in which the rebound of the wall after impact can be observed. The testing procedure was carried out by the German organization LGA which is an independent product testing and certification company. Based on the results of the test, the claimed system has received certification to the DIN 4103 standard. Proof of such certification may be provided if needed.

The Examiner is respectfully requested to view the above mentioned movie (which may be submitted on disk if required) and consider the role that the specific choice of materials, chemistry and dimensions has achieved. Such strength and resilience would have been beyond the imagination of the person of ordinary skill on considering the Wright citation. These design choices have also led to a product having significant commercial success in the market.

None of the further prior art of record assists the person of ordinary skill in arriving at the invention. Wirkus et al (US 5,740,646) considers PVC strips connected either by silicone constructor seal or grouting (see column 5, line 12 to 19). In order to increase rigidity and safety an alternative aluminum profile is proposed (see col. 6, line 40 to line 46). Applicant is of the opinion that such a structure would be less resistant to impact than the presently claimed construction due to its inability to absorb impact. Wirkus thus teaches away from the

present solution. A number of citations by Voegelé et al (US 2004/0177577 and US 7,426,805) address alternative spacer constructions that seek to increase strength and resistance to deflection by the use of mechanical means, including tensioned steel rods (see US 7,426,805 at col. 1, line 54 to line 59). Coleman (US 5,806,263) uses a plastic spacing strip of PE or PP which may be assembled using silicone mastic or foam strips (see col. 6 line 64 to col. 7, line 12). The use of strong adhesives and a hollow polystyrene profile is not suggested and Applicant believes that the Coleman construction would only be suited for wall structures supported at three or four sides or held within a mounting frame. McMarlin (US 4,986,048) provides additional support for Applicant's portrayal of the state of the art prior to the present invention. McMarlin uses spacers of flexible material (shown in a roll 44) and uses silicone caulking to adhere the structure together. The strength of the structure is however provided by the external frame (see col. 1, line 7 to line 12 and col. 3, line 34 to line 39).

Based on the above, the Examiner is respectfully requested to withdraw the rejection and allow claim 1 and also claims 12 and 18 which rely upon the same inventive features.

Claims 3, 4, 9 – 11, 13, 14, 15, 19 and 20 are dependent upon the above claims and are believed to be thus also allowable.

Extension of Time

Any extension of time that may be deemed necessary to further the prosecution of this application is hereby requested.

Authorization to Charge Fees

The Commissioner is authorized to charge any additional fees which may be required, or credit any overpayment, to Deposit Account No. 08-3038, referencing the docket number shown above.

Authorization to Communicate via email

Pursuant to MPEP 502.03, authorization is hereby given to the USPTO to communicate with Applicant's representative concerning any subject matter of this application by electronic mail. I understand that a copy of these communications will be made of record in

the application file. Applicant's representative, David P. Owen, can be reached at email address owend@howrey.com.

Should issue of a final rejection be considered, the Examiner is respectfully requested to contact the undersigned by telephone at the number given below or by email to owend@howrey.com in order to schedule a telephone interview.

Respectfully submitted,

/david p owen/

David P. Owen
Reg. No. 43,344

Date: 16th July 2009

Customer No. 32,894
Howrey LLP
2941 Fairview Park Drive, Suite 200
Falls Church, VA 22042
Fax: 202-383-7195
Tel: 9-011-31-20-592-4411